

HOUSE BILL No. 1587

DIGEST OF INTRODUCED BILL

Citations Affected: IC 29-1-7-7; IC 29-1-14-1.

Synopsis: Claim deadlines. Removes provisions barring certain claims filed against a decedent's estate more than nine months after the date of the decedent's death.

Effective: July 1, 2015.

GiaQuinta

January 20, 2015, read first time and referred to Committee on Judiciary.



First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1587

A BILL FOR AN ACT to amend the Indiana Code concerning probate.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 29-1-7-7, AS AMENDED BY P.L.143-2009,
2 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 7. (a) As soon as letters testamentary or of
4 administration, general or special, supervised or unsupervised, have
5 been issued, the clerk of the court shall publish notice of the estate
6 administration.
7 (b) The notice required under subsection (a) shall be published in
8 a newspaper of general circulation, printed in the English language and
9 published in the county where the court is located, once each week for
10 two (2) consecutive weeks. A copy of the notice, with proof of
11 publication, shall be filed with the clerk of the court as a part of the
12 administration of the estate within thirty (30) days after the publication.
13 If no newspaper is published in the county, the notice shall be
14 published in a newspaper published in an adjacent county.
15 (c) The notice required under subsection (a) shall be served by first



class postage prepaid mail on each heir, devisee, legatee, and known creditor whose name and address is set forth in the petition for probate or letters, except as otherwise ordered by the court. The personal representative shall furnish sufficient copies of the notice, prepared for mailing, and the clerk of the court shall mail the notice upon the issuance of letters.

(d) The personal representative or the personal representative's agent shall serve notice on each creditor of the decedent:

(1) whose name is not set forth in the petition for probate or letters under subsection (c);

(2) who is known or reasonably ascertainable within one (1) month after the first publication of notice under subsection (a); and

(3) whose claim has not been paid or settled by the personal representative.

The notice may be served by mail or any other means reasonably calculated to ensure actual receipt of the notice by a creditor.

(e) Notice under subsection (d) shall be served within one (1) month after the first publication of notice under subsection (a) or as soon as possible after the elapse of one (1) month. If the personal representative or the personal representative's agent fails to give notice to a known or reasonably ascertainable creditor of the decedent under subsection (d) within one (1) month after the first publication of notice under subsection (a), the period during which the creditor may submit a claim against the estate includes an additional period ending two (2) months after the date notice is given to the creditor under subsection (d). ~~However, a claim filed under IC 29-1-14-1(a) more than nine (9) months after the death of the decedent is barred.~~

(f) A schedule of creditors that received notice under subsection (d) shall be delivered to the clerk of the court as soon as possible after notice is given.

(g) The giving of notice to a creditor or the listing of a creditor on the schedule delivered to the clerk of the court does not constitute an admission by the personal representative that the creditor has an allowable claim against the estate.

(h) If any person entitled to receive notice under this section is under a legal disability, the notice may be served upon or waived by the person's natural or legal guardian or by the person who has care and custody of the person.

(i) The notice shall read substantially as follows:

NOTICE OF ADMINISTRATION

In the _____ Court of _____ County, Indiana.



1 Notice is hereby given that _____ was, on the ____ day of
 2 _____, 20 __, appointed personal representative of the estate of
 3 _____, deceased, who died on the ____ day of _____, 20 __.

4 All persons who have claims against this estate, whether or not now
 5 due, must file the claim in the office of the clerk of this court within
 6 three (3) months from the date of the first publication of this notice, ~~or~~
 7 ~~within nine (9) months after the decedent's death, whichever is earlier,~~
 8 or the claims will be forever barred.

9 Dated at _____, Indiana, this ____ day of _____, 20 __.

10
 11 _____
 12 CLERK OF THE _____ COURT
 FOR _____ COUNTY, INDIANA

13 SECTION 2. IC 29-1-14-1 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) Except as
 15 provided in IC 29-1-7-7, all claims against a decedent's estate, other
 16 than expenses of administration and claims of the United States, the
 17 state, or a subdivision of the state, whether due or to become due,
 18 absolute or contingent, liquidated or unliquidated, founded on contract
 19 or otherwise, shall be forever barred against the estate, the personal
 20 representative, the heirs, devisees, and legatees of the decedent, unless
 21 filed with the court in which such estate is being administered within:

22 (1) three (3) months after the date of the first published notice to
 23 creditors; or

24 (2) three (3) months after the court has revoked probate of a will,
 25 in accordance with IC 29-1-7-21, if the claimant was named as a
 26 beneficiary in that revoked will;

27 whichever is later.

28 (b) No claim shall be allowed which was barred by any statute of
 29 limitations at the time of decedent's death.

30 (c) No claim shall be barred by the statute of limitations which was
 31 not barred at the time of the decedent's death, if the claim shall be filed
 32 within:

33 (1) three (3) months after the date of the first published notice to
 34 creditors; or

35 (2) three (3) months after the court has revoked probate of a will,
 36 in accordance with IC 29-1-7-21, if the claimant was named as a
 37 beneficiary in that revoked will;

38 whichever is later.

39 ~~(d) All claims barrable under subsection (a) shall be barred if not~~
 40 ~~filed within nine (9) months after the death of the decedent.~~

41 ~~(e)~~ (d) Nothing in this section shall affect or prevent any action or
 42 proceeding to enforce any mortgage, pledge, or other lien upon



1 property of the estate.

2 ~~(f)~~ (e) Nothing in this section shall affect or prevent the enforcement
3 of a claim for injury to person or damage to property arising out of
4 negligence against the estate of a deceased tortfeasor within the period
5 of the statute of limitations provided for the tort action. A tort claim
6 against the estate of the tortfeasor may be opened or reopened and suit
7 filed against the special representative of the estate within the period
8 of the statute of limitations of the tort. Any recovery against the tort
9 feaser's estate shall not affect any interest in the assets of the estate
10 unless the suit was filed within the time allowed for filing claims
11 against the estate. The rules of pleading and procedure in such cases
12 shall be the same as apply in ordinary civil actions.

13 SECTION 3. [EFFECTIVE JULY 1, 2015] (a) **IC 29-1-7-7 and**
14 **IC 29-1-14-1, both as amended by this act, apply to the estate of an**
15 **individual whose death occurs after June 30, 2015.**

16 (b) **This SECTION expires July 1, 2016.**

